

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Plaintiff filed his state-court complaint on February 10, 2017, (see Dkt. 1, Notice of Removal (“NOR”) at ¶ 2; Dkt 1-1, Complaint), which was removed by certain defendants on March 9, 2017. (See NOR). By order dated April 19, 2017, plaintiff was ordered to show cause, on or before April 25, 2017, why remaining defendant Opt Out Services LLC should not be dismissed for lack of prosecution for failure to complete service of the summons and complaint as required by Rule 4(m) of the Federal Rules of Civil Procedure.¹ (See Dkt. 20, Court’s Order of April 19, 2017). Plaintiff was advised that the court may dismiss the action prior to the 90 days required by Rule 4(m) if plaintiff has not diligently prosecuted the action. (See *id.*). Moreover, plaintiff was admonished that “[f]ailure to file a timely response to this Order to Show Cause may result in Opt Out Services LLC being dismissed for lack of prosecution and for failure to comply with the orders of the court, pursuant to Fed. R. Civ. P. 41(b); Link v. Wabash R.R. Co., 370 U.S. 626, 629-30,

¹ Unless otherwise indicated, all “Rule” references are to the Federal Rules of Civil Procedure.

1 82 S.Ct. 1386, 1388 (1962)." (*Id.*). As of the date of this Order, plaintiff has not filed a response
2 to the OSC.² (See, generally, Dkt.).

3 Absent a showing of good cause, an action must be dismissed without prejudice if the
4 summons and complaint are not served on a defendant within 90 days after the complaint is filed.
5 Fed. R. Civ. P. 4(m). The court will grant plaintiff one final opportunity to comply with Rule 4(m).

6 Accordingly, IT IS ORDERED THAT:

7 1. Plaintiff shall file a proof of service no later than **May 12, 2017**.

8 2. Plaintiff is again admonished that failure to respond to the OSC or file a proof of service
9 by the May 12, 2017, deadline will result in the action being dismissed without prejudice for lack
10 of prosecution and/or failure to comply with the orders of the court. See Fed. R. Civ. P. 41(b); Link
11 v. Wabash R. Co., 370 U.S. 626, 629-30, 82 S.Ct. 1386, 1388 (1962).

12 3. The Order to Show Cause Re: Dismissal Re: Lack of Prosecution, is hereby continued
13 pending compliance with paragraph one above.

14 Dated this 3rd day of May, 2017.

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16 _____ /s/
17 Fernando M. Olguin
18 United States District Judge
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² Plaintiff has dismissed the two other defendant named in the Complaint. (See Dkt. 17 & 19).